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August 26, 2003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of J. Kaplow, T. Haws, M. Rosier, and P. Deneffe  
Application No. 09/823,119 Art Unit 1635  
Filed March 30, 2001 Examiner J. Epps

Nuclear Factor Kappa B Inducing Factor

(Atty. Docket No. P 23,461-A USA)

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on Tuesday, August 26, 2003.

  
Gene J. Yao

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION  
UNDER 37 CFR §1.143 OF THE EXAMINER'S  
REQUIREMENT FOR RESTRICTION, DATED JUNE 26, 2003

Sir:

In response to the Examiner's Requirement for Restriction of June 26, 2003, applicants elect, with traverse, the Group I claims (Claims 1, 3, and 26 to 28), drawn to an isolated nucleic acid encoding NFIF-14b.

Applicants traverse, however, the Examiner's Requirement. It is submitted respectfully that the Examiner's Requirement is deficient on its face because 35 U.S.C. §121 requires that the subject matter of the claim groups be independent from each other, as well as distinct. Clearly, the inventions which are defined in the various groups of claims are not independent in that there exists a disclosed relationship amongst them. NFIF-7a and NFIF-14b are related in that NFIF-14b is a full-length polypeptide and NFIF-7a is a splice variant thereof. Furthermore, the claims respecting the above polypeptides are related in that they are directed to the polypeptide, a nucleic acid encoding the same, a method for using such a nucleic acid or such a polypeptide, a method and a composition for lowering the activity of the polypeptide, and methods for evaluating whether a test compound is effective in inhibiting or enhancing the activity of the polypeptide.

The Examiner has recognized apparently that the claim groups do not define independent inventions because she has not characterized them as being independent. Moreover, the Examiner has not even attempted in her Action to explain why she considers the claims to be directed to independent inventions. Consequently, the Examiner has issued a Requirement that is deficient on its face because she has not explained why the various claims groups are considered to define independent subject matter. Accordingly, the Requirement should be withdrawn.

It is submitted further that the Examiner's Requirement with respect to all groups should be withdrawn because it is believed that a proper search of the subject matter of any one of the groups of claims cannot be done except that a search is conducted for the subject matter of all groups of claims. This is so because the subject matter of the claims is so interrelated.



A DOCPHOENIX

FOLLOW-ON DOCUMENT INDEX SHEET

**INCOMING**

\_\_\_\_ ACPA \_\_\_\_  
Continuing Prosecution Application

\_\_\_\_ AP.B \_\_\_\_  
Appeal Brief

\_\_\_\_ C680 \_\_\_\_  
Request for Corrected Notice/Allowance

\_\_\_\_ C.AD \_\_\_\_  
Change of Address

\_\_\_\_ CFILE \_\_\_\_  
Request for Corrected Filing Receipt

\_\_\_\_ COCIN \_\_\_\_  
Papers filed re Certificate of Corrections

\_\_\_\_ CRFD \_\_\_\_  
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\_\_\_\_ EABN \_\_\_\_  
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Response to Election/Restriction

\_\_\_\_ IFEE \_\_\_\_  
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\_\_\_\_ N417 \_\_\_\_  
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\_\_\_\_ N/AP \_\_\_\_  
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\_\_\_\_ PA.. \_\_\_\_  
Change in Power of Attorney

\_\_\_\_ PC/I \_\_\_\_  
Power to Make Copies or to Inspect

\_\_\_\_ PEF. \_\_\_\_  
Pre-Exam Formalities Response

\_\_\_\_ PEFRRREISS \_\_\_\_  
Pre-Exam Formalities Reissue Response

\_\_\_\_ PEFRSEQ \_\_\_\_  
Pre-Exam Formalities Sequence Reply

**INCOMING**

\_\_\_\_ LET. \_\_\_\_  
Misc. Incoming Letter

\_\_\_\_ IMIS \_\_\_\_  
Miscellaneous Internal Document

\_\_\_\_ PGEA \_\_\_\_  
Req Express Aband to avoid Publication

\_\_\_\_ PGA9 \_\_\_\_  
Req for Corrected Pat App Publication

\_\_\_\_ PGREF \_\_\_\_  
Req for Refund of Publication Fee Paid

\_\_\_\_ PROTEST \_\_\_\_  
Protest Documents Filed by 3<sup>rd</sup> Party

\_\_\_\_ PROTRANS \_\_\_\_  
Translation of Provisional in Nonprovisional

\_\_\_\_ REM \_\_\_\_  
Applicant Remarks in Amendment

\_\_\_\_ RESC \_\_\_\_  
Rescind Non-Publication Request

\_\_\_\_ RETMAIL. \_\_\_\_  
Mailed Returned by Post Office

\_\_\_\_ XT/ I \_\_\_\_  
Extension of Time filed separate

**APPL PARTS**

\_\_\_\_ 371P \_\_\_\_  
PCT Papers in a 371 Application

\_\_\_\_ A... \_\_\_\_  
Amendment Including Elections

\_\_\_\_ A.NE \_\_\_\_  
After Final Amendment

\_\_\_\_ A.PE \_\_\_\_  
Preliminary Amendment

\_\_\_\_ ABST \_\_\_\_  
Abstract

\_\_\_\_ ADS \_\_\_\_  
Application Data Sheet

\_\_\_\_ AF/D \_\_\_\_  
Affidavit or Exhibit Received

\_\_\_\_ APPENDIX \_\_\_\_  
Appendix

**APPL PARTS**

\_\_\_\_ ARTIFACT \_\_\_\_  
Artifact

\_\_\_\_ CLM \_\_\_\_  
Claim

\_\_\_\_ COMPUTER \_\_\_\_  
Computer Program Listing

\_\_\_\_ CRFL \_\_\_\_  
CRF Transfer Request

\_\_\_\_ CRFS \_\_\_\_  
Computer Readable Form Statement

\_\_\_\_ DIST \_\_\_\_  
Terminal Disclaimer Filed

\_\_\_\_ DRW \_\_\_\_  
Drawings

\_\_\_\_ FOR \_\_\_\_  
Foreign Reference

\_\_\_\_ FRPR \_\_\_\_  
Foreign Priority Papers

\_\_\_\_ IDS \_\_\_\_  
IDS Including 1449

\_\_\_\_ NPL \_\_\_\_  
Non-Patent Literature

\_\_\_\_ OATH \_\_\_\_  
Oath or Declaration

\_\_\_\_ PET. \_\_\_\_  
Petition

\_\_\_\_ PGPUB DRAWINGS \_\_\_\_  
Box PG Pub Drawings

\_\_\_\_ SEQLIST \_\_\_\_  
Sequence Listing

\_\_\_\_ SPEC \_\_\_\_  
Specification

\_\_\_\_ SPEC NO \_\_\_\_  
Specification Not in English